

MINUTES OF PLANNING & ZONING COMMISSION
JUNE 16, 2005
BUFFALO COUNTY HIGHWAY DEPARTMENT
7:00 P.M.

Chairperson Rick Pope called the meeting to order at 7:05 o'clock P.M. with a quorum present on June 16, 2005 at the Buffalo County Highway Department Building in Kearney, NE.

Agenda for such meeting was regularly posted as required by law. Present were: Francis "Buss" Biehl, Karin Covalt, Marlin Heiden, Rick Pope, Leonard Skov and Craig Wietjes. Absent: Paul Steinbrink, Sr. and Loye Wolfe. Willy Keep arrived at 7:10. Also attending were Deputy County Attorney Andrew Hoffmeister, Buffalo County Zoning Administrator LeAnn Klein and fifteen members of the public.

The public forum was opened at 7:05 P.M. There was no one present to speak. The public forum closed at 7:05 P.M.

Chairperson Pope opened the public hearing at 7:06 P.M. for a special use permit for Shane Roach for a concrete plant for property located in part of the Northeast Quarter of the Northwest Quarter and part of Government Lot 1, located in Section 30, Township 9 North, Range 14 West, Buffalo County Nebraska.

Chairperson Pope announced that the reason the Planning & Zoning Commission continued this meeting is so that Mr. Roach could bring more information to tonight's meeting. The Commission will only hear new information since they had previously heard public comments at the May 19, 2005 meeting. The public hearing had been closed at last month's meeting.

Mandi Schweitzer, attorney for Shane Roach introduced Mike Smith, who is with Milco Environmental Services, Inc. They have worked on a plan and will address the concerns and asked that the Planning & Zoning write down any questions they might have and these will be addressed tonight.

Schweitzer passed out the following to the Planning & Zoning Commission:

1. The lay-out of the proposed concrete plant
2. Aerial map which shows surrounding properties and distance to adjoining properties
3. Soil map from Soil Conservation Service of surrounding area
4. Pictures of proposed site
5. Proposal for type of trees and number of trees
6. Summary of assessed values surrounding Riverdale Redi-Mix

Mike Smith explained the lay-out of the proposed location, which shows pilings and shelter belt. He said the reason there are no permits in place with the State DEQ is because there is no hard copy but is a general permit for the entire State of Nebraska. The purpose of the NPDES is to minimize potential pollutants. He said you have to file a notice of intent with the State to let them know you intend to discharge from an industrial facility. By this plan they want to minimize water flow off this property. As per this drawing they are building an access road and

this will act as a berm to hold water on this property. The shelter belt will be on the east and south property line. There also will be sprinkler lines along the driveway to help keep the dust down. Smith is not an engineer but he did have an engineer run the numbers for the drainage. The soil map shows that this area is Wood River silt loam and Hall silt loam which are both a high water capacity. They are also planning to maintain as much vegetation on this property as possible. He also addressed the issue of the silica. He stated there is only less than 1% of pre-silica in Portland cement and majority is not harmful.

Hoffmeister asked if the only access would be one drive-way off Highway 30 which Smith said was correct.

Schweitzer presented the proposal for the type of trees to the Commission. She also had a listing of assessed values.

Pope said assessed values are not pertinent at this time. The Commission only needed to see a lay-out of this area and assessed values are not the main issue tonight.

Heiden asked the following questions:

1. Why there aren't trees on west side
2. What type of road

Smith responded the lay-out of the trees is how Roach intended and the road would be crushed rock.

Hoffmeister explained that the Commission makes a recommendation to the County Board and the County Board will make the final decision. He also explained that this permit will be subject to all rules of Department of Environmental Quality and will be required to operate at the highest mandatory standards required by local, state and federal regulations.

Skov asked if the rules and regulations are not followed, what the recourse is. The accountability moves away from the County and falls under the state regulations. The only "use by right" for ready mix plants is only allowed in an industrial area. There is potential for additional problems such as chemicals getting into the ground etc. This is an agricultural zone and is doable if there is nothing else around. Currently we have a warehouse, a greenhouse, agricultural use and residences. Is this compatible to the uses already in this area? Is this a good fit?

Biehl asked can we assume that State DEQ permits are a non-issue with our decision.

Hoffmeister replied the operational concrete plant would need to get the necessary permits as required by State and Federal laws.

Pope thinks this is a good plan but his concern is it doesn't fit in this area. This is an agricultural area and is this a good plan for this area? He has had concerns in the past but now looking at this drawing there is a distance of 644' to one house and 1024' to another house. At last month's meeting, Mr. Koster stated he would have more commercial businesses coming into this area and does commercial mix with industrial area?

Keep questioned if this is zoned agricultural. Pope responded Koster's property is zoned agricultural with a special use, the greenhouse is a "use by right" and the tomato warehouse is zoned commercial and other areas are zoned agricultural.

Skov stated we need to weigh the merits of this proposal. He feels a concrete plant belongs in an industrial area. We need to look if this is compatible with agricultural or industrial? It's not compatible with agricultural. It is definitely not compatible with commercial. This is a good plan but in the wrong place.

Keep questioned the size of this plant. Are we looking at 50 or 5 trucks per day? In an industrial area, we would have a certain amount of activity and pollutants. Pope said they would start out with five but probably don't know where it goes.

Schweitzer asked how many industrial areas are in the County currently and Hoffmeister showed the industrial areas on the map.

Heiden told Roach he would have a better chance at getting approval next to an industrial area.

Roach responded there are no areas that are available for industrial use.

Pope reiterated that no additional comments would be heard and closed the public hearing at 7:50 P.M.

Moved by Skov, seconded by Wietjes to recommend to deny the request of the special use permit for a ready-mix plant and forward this application to the County Board with denial on the following legal description: A tract of land being part of the Northeast Quarter of the Northwest Quarter and part of Government Lot 1, located in Section 30, Township 9 North, Range 14 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Northwest Corner of Government Lot 1 in Section 30, and assuming the West line of Government Lot 1 as bearing S00°09'34" W and all bearings contained herein are relative thereto; then S 00°09'34" W and on the West line of said Government Lot 1, a distance of 372.85 feet; thence S 89°29'20" E and parallel with the North line of said Government Lot 1 a distance of 1102.02 feet to the ACTUAL PLACE OF BEGINNING; thence continuing S 89°29'20" E and parallel with the North line of said Government Lot 1, a distance of 150.18 feet; thence N 00°09'34" E and parallel with the West line of said Government Lot 1 a distance of 96.91 feet; thence S 89°29'20" E and parallel with the North line of said Government Lot 1 a distance of 373.17 feet; thence S 04°30' E a distance of 11.73 feet to a point being N 04°30' W a distance of 313.5 feet from the North line of the Union Pacific Company's Right-of-Way, thence S 89°05'44" E a distance of 323.0 feet to a point being N 04°30' W a distance of 214.5 feet from the North line of the Union Pacific Railroad Company's Right-of-Way'; thence N 04°30' W a distance of 290.95 feet to a point on the North line of the Northwest Quarter of said Section 30, said point also being westerly a distance of 670.23 feet from the Northeast Corner of the Northwest Quarter of said Section 30; thence N 89°29'20" W and on the North line of said Northwest Quarter a distance of 653.67 feet to the Northwest Corner of the Northeast Quarter of the Northwest Quarter of said Section 30, said point also being the Northeast Corner of

Government Lot 1 in said Section 30; thence N 89°29'20" W and on the North line of said Government Lot 1 a distance of 171.08 feet; thence S 00°09'34" W and parallel with the West line of said Government Lot 1, a distance of 372.84 feet to the place of beginning, Buffalo County Nebraska. This decision is based on Section 6.2 #1-7 of the Buffalo County Zoning Regulations.

1. Be compatible with and similar to the use permitted in the district, and
2. Not be a matter which should require re-zoning of the property, and
3. Not be detrimental to adjacent property, and
4. Not tend to depreciate the value of the surrounding structures or property, and
5. Be compatible with the stated intended use of the district, and
6. Not change the character of the district, and
7. Be in accordance with the Comprehensive Plan.

Skov feels this is not compatible with surrounding area.

Voting yes were Skov, Wietjes, Biehl, Covalt, and Pope. Voting no: Keep and Heiden. Absent: Steinbrink and Wolfe. Motion passed.

Hoffmeister explained to the audience the process of the procedure according to Section 6.2 of the Buffalo County Zoning Regulations. The Planning & Zoning Commission makes a recommendation to the County Board and the County Board makes the final decision. He also explained the process of protest according to Section 11.4 of the Buffalo County Zoning Regulations for anyone owning property within 300' of the proposed concrete plant. This would require a favorable vote of two-thirds majority of the County Board.

Anyone wanting to protest must attend or designate someone to appear in their place before the County Board.

Old Business: Moved by Wietjes, seconded by Skov to approve the minutes of the May 19, 2005 as mailed. Voting yes were Wietjes, Skov, Biehl, Covalt, Heiden, Keep and Pope. Voting no: none. Absent: Steinbrink and Wolfe. Motion passed.

Wietjes asked when the hearing would be held for the concrete plant. Klein responded it would be heard before the County Board on July 12, 2005.

Klein also reported that Keith County and Morrill County are the first Counties in Nebraska to apply to become "livestock friendly".

The Commission questioned if the County Board has been anything on the subdivision regulations and were told nothing has been done.

Klein also questioned what could be done with people who start construction without a permit. This will be looked into.

The next meeting of the Planning & Zoning Commission will be July 21, 2005 at the Highway Department. Moved by Skov, seconded by Covalt to adjourn at 8:35 P.M.